



General Assembly

February Session, 2010

Raised Bill No. 13

LCO No. 180

00180_____INS

Referred to Committee on Insurance and Real Estate

Introduced by:
(INS)

AN ACT CONCERNING REAL ESTATE APPRAISAL MANAGEMENT COMPANIES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 20-500 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2010*):

3 As used in sections 20-500 to 20-528, inclusive, as amended by this
4 act, and sections 2 to 7, inclusive, of this act, unless the context
5 otherwise requires:

6 (1) "Appraisal" means the practice of developing an opinion of the
7 value of real property, in conformance with the USPAP.

8 [(1)] (2) "Appraisal Foundation" means the not-for-profit
9 corporation referred to in Section 1121 of Title XI of FIRREA.

10 (3) "Appraisal management company" means any person,
11 partnership, association, limited liability company or corporation that
12 performs appraisal management services and performs more than ten
13 appraisals in this state in a calendar year. "Appraisal management
14 company" does not include:

15 (A) A person, partnership, association, limited liability company or
16 corporation that employs a person to perform appraisals under any
17 express or implied contract of hire creating the relationship of
18 employer and employee and such person, partnership, association,
19 limited liability company or corporation is responsible for ensuring
20 that the appraisals are performed in accordance with the USPAP; or

21 (B) A department or unit of a financial institution that is subject to
22 regulation by an agency or department of the United States
23 government or an agency of this state, that receives an appraisal
24 request from an employee of such institution, except that an appraisal
25 management company that is wholly owned by such institution, shall
26 not be deemed to be a department or unit of such institution. For the
27 purposes of this subparagraph, "financial institution" means a bank, as
28 defined in section 36a-2, an out-of-state bank, as defined in section 36a-
29 2, an institutional lender, any subsidiary or affiliate of such bank, out-
30 of-state bank or institutional lender, or other lender licensed by the
31 Banking Department.

32 (4) "Appraisal management services" means any of the following:

33 (A) The administration of an appraiser panel;

34 (B) The recruitment of certified or licensed appraisers to be part of
35 an appraiser panel, including, but not limited to, the negotiation of fees
36 to be paid to, and services to be provided by, such appraisers for their
37 participation on such panel; or

38 (C) The receipt of an appraisal request or order and the delivery of
39 such request or order to an appraiser panel.

40 (5) "Appraiser fee schedule" means a list of the fees an appraisal
41 management company shall pay to a certified or licensed appraiser for
42 the performance of appraisals.

43 (6) "Appraiser panel" means a network of appraisers who are
44 certified or licensed in accordance with the requirements established

45 by the commission by regulation, who are independent contractors of
46 an appraisal management company and who have:

47 (A) Responded to an invitation, request or solicitation from an
48 appraisal management company to perform appraisals (i) requested or
49 ordered through such company, or (ii) directly for such company on a
50 periodic basis as assigned by the company; and

51 (B) Been selected and approved by such company.

52 [(2)] (7) "Certified appraiser" means a person who has satisfied the
53 minimum requirements for a category of certification established by
54 the commission by regulation. Such minimum requirements shall be
55 consistent with guidelines established by the Appraisal Qualification
56 Board of the Appraisal Foundation. The categories of certification shall
57 include, but may be modified by the commission thereafter, one
58 category denoted as "certified residential appraiser" and another
59 denoted as "certified general appraiser".

60 [(3)] (8) "Limited appraiser" means a person who held a real estate
61 appraisal license as of January 1, 1991, and has satisfied the minimum
62 requirements for a license as a limited appraiser as established by the
63 commission by regulation. The categories of limited appraisal shall
64 include one category denoted as "limited residential appraiser" and
65 another denoted as "limited general appraiser".

66 [(4)] (9) "Commission" means the Connecticut Real Estate Appraisal
67 Commission appointed under the provisions of section 20-502.

68 (10) "Commissioner" means the Commissioner of Consumer
69 Protection.

70 (11) "Controlling person" means a person who holds an appraiser
71 license or certificate in at least one state and who:

72 (A) Is an owner, officer or director of a partnership, association,
73 limited liability company or corporation offering or seeking to offer

74 appraisal management services in this state;

75 (B) Is employed by an appraisal management company and has the
76 authority to enter into contracts or agreements for the performance of
77 appraisal management services or appraisals, or is appointed or
78 authorized by such company to enter into such contracts or
79 agreements; or

80 (C) May exercise authority over or direct the management or
81 policies of an appraisal management company.

82 [(5)] (12) "Engaging in the real estate appraisal business" means the
83 act or process of estimating the value of real estate for a fee or other
84 valuable consideration.

85 [(6)] (13) "FIRREA" means the Financial Institutions, Reform,
86 Recovery and Enforcement Act of 1989, P.L. 101-73, 103 Stat. 183.

87 [(7)] (14) "Licensed appraiser" means a person who has satisfied the
88 minimum requirements for a category of licensing, other than licensed
89 limited appraiser, established by the commission by regulation. Such
90 minimum requirements may be consistent with guidelines established
91 by the Appraisal Qualification Board of the Appraisal Foundation. The
92 categories of licensing shall include, but may be modified by the
93 commission thereafter, one category denoted as "licensed residential
94 appraiser" and another denoted as "licensed general appraiser".

95 [(8)] (15) "Person" means any individual.

96 [(9)] (16) "Provisional appraiser" means a person engaged in the
97 business of estimating the value of real estate for a fee or other
98 valuable consideration under the supervision of a certified or licensed
99 real estate appraiser and who meets the minimum requirements, if
100 any, established by the commission by regulation for provisional
101 appraiser status.

102 [(10)] (17) "Real estate appraiser" or "appraiser" means a person

103 engaged in the business of estimating the value of real estate for a fee
104 or other valuable consideration.

105 (18) "USPAP" means the Uniform Standards of Professional
106 Appraisal Practice as developed by the Appraisal Foundation.

107 Sec. 2. (NEW) (*Effective October 1, 2010*) (a) No appraisal
108 management company shall (1) engage or attempt to engage in
109 business as an appraisal management company in this state, (2)
110 perform or attempt to perform appraisal management services in this
111 state, or (3) advertise or hold itself out as engaging in business as an
112 appraisal management company in this state without first registering
113 with the Department of Consumer Protection.

114 (b) Each appraisal management company shall apply to the
115 Commissioner of Consumer Protection, in writing, on a form provided
116 by the commissioner. The application shall include (1) the company's
117 name, business address and telephone number; (2) if such company is
118 domiciled in another state, the name, address and telephone number of
119 the company's agent for service of process in this state, and the
120 Uniform Consent to Service of Process form to be completed by the
121 company; (3) the name, address and telephone number of any person
122 or business entity owning ten per cent or more of an equity interest, or
123 the equivalent, of the company; (4) a certification by the company that
124 no person or business entity named in subdivision (3) of this
125 subsection has had an appraiser license or certificate denied, refused to
126 be renewed, suspended or revoked in any state; (5) the name, address
127 and telephone number of a controlling person of the company who
128 will serve as the main contact for communications between the
129 commissioner and the appraisal management company; (6) the
130 appraiser fee schedules utilized by the company; and (7) any other
131 information the commissioner may require. Each such application shall
132 be accompanied by a fee of ____ dollars.

133 (c) Before issuing or renewing a certificate of registration, the
134 commissioner shall:

135 (1) Certify that each appraisal management company applying for a
136 certificate of registration has procedures in place to (A) verify that a
137 person being added to the appraiser panel of the company holds a
138 license in good standing in accordance with section 20-509 of the
139 general statutes, (B) maintain detailed records of each appraisal
140 request or order it receives and of the appraiser who performs such
141 appraisal, and (C) review on a periodic basis the work of all appraisers
142 performing appraisals for the company, to ensure that such appraisals
143 are being conducted in accordance with the USPAP;

144 (2) Determine to the commissioner's satisfaction that each person
145 owning more than ten per cent of an appraisal management company
146 is of good moral character and such person has submitted to a
147 background investigation, as deemed necessary by the commissioner;
148 and

149 (3) Determine to the commissioner's satisfaction that the controlling
150 person (A) holds a valid appraiser license or certificate in at least one
151 state, (B) has never had an appraiser license or certificate denied,
152 refused to be renewed, suspended or revoked in any state, (C) is of
153 good moral character, and (D) has submitted to a background
154 investigation, as deemed necessary by the commissioner.

155 (d) (1) The commissioner shall issue a registration number to each
156 appraisal management company registered in this state and shall
157 publish annually a list of appraisal management companies that are
158 registered with the Department of Consumer Protection.

159 (2) Each such company shall state in any advertisement, including
160 any advertisement in a telephone directory or on the Internet, that
161 such company is registered in this state and shall include such
162 company's registration number in any such advertisement.

163 (e) All certificates issued under the provisions of this section shall
164 expire annually. The fee for renewal of a certificate shall be ____
165 dollars.

166 Sec. 3. (NEW) (*Effective October 1, 2010*) (a) Each appraisal
167 management company shall certify to the commissioner annually that
168 it maintains a detailed record of each appraisal request or order it
169 receives and of the appraiser who performs such appraisal.

170 (b) Each appraisal management company may audit the appraisals
171 completed by appraisers on its appraiser panel to ensure that such
172 appraisals are being performed in accordance with the USPAP.

173 (c) Upon request by the commissioner, an appraisal management
174 company shall provide a current list of the appraisers included in such
175 company's appraiser panel.

176 (d) (1) Any appraisal management company that utilizes any
177 appraiser fee schedules shall develop such schedules through one or
178 more surveys of the market rates applied to appraisers in this state.
179 Such surveys shall be performed utilizing statistically valid
180 methodologies, techniques and reliable data sources, including, but not
181 limited to, representative samples of appraisers.

182 (2) The commissioner may review any appraiser fee schedule to
183 ensure that such schedule was developed in accordance with
184 subdivision (1) of this subsection. Upon request of the commissioner,
185 an appraisal management company shall disclose to the commissioner
186 the methodologies, techniques and data sources used by such
187 company to determine the amounts listed on such schedule.

188 (3) The commissioner shall make public the results of any appraiser
189 fee schedule review under subdivision (2) of this subsection.

190 Sec. 4. (NEW) (*Effective October 1, 2010*) (a) No appraisal
191 management company applying for a certificate of registration shall:

192 (1) Be more than ten per cent owned by any person who has had an
193 appraiser license or certificate denied, refused to be renewed,
194 suspended or revoked in any state;

195 (2) Be owned by any partnership, association, limited liability
196 company or corporation that is more than ten per cent owned by any
197 person who has had an appraiser license or certificate denied, refused
198 to be renewed, suspended or revoked in any state;

199 (3) Employ any person who has had an appraiser license or
200 certificate denied, refused to be renewed, suspended or revoked; or

201 (4) Enter into any contract, agreement or other business
202 arrangement, whether oral, written or any other form, with (A) any
203 person who has had an appraiser license or certificate denied, refused
204 to be renewed, suspended or revoked, or (B) any partnership,
205 association, limited liability company or corporation that employs or
206 has entered into any contract, agreement or other business
207 arrangement, whether oral, written or any other form, with any person
208 who has had an appraiser license or certificate denied, refused to be
209 renewed, suspended or revoked.

210 (b) Any employee of an appraisal management company or any
211 contractor working on behalf of such company who has any
212 involvement in the ordering of appraisals in this state, performance of
213 appraisals in this state or review and analysis of completed appraisals
214 in this state shall be certified or licensed and in good standing
215 pursuant to the provisions of sections 20-500 to 20-528, inclusive, of the
216 general statutes, as amended by this act.

217 (c) Except in cases of breach of contract or substandard performance
218 of services, each appraisal management company operating in this
219 state shall make payment to an appraiser for the completion of an
220 appraisal or valuation assignment not later than sixty days after the
221 date on which such appraiser transmits or otherwise provides the
222 completed appraisal or valuation study to the appraisal management
223 company or its assignee.

224 (d) No employee, owner, controlling person, director, officer or
225 agent of an appraisal management company shall influence or attempt

226 to influence the development, reporting or review of an appraisal in
227 any manner, including, but not limited to:

228 (1) Withholding or threatening to withhold timely payment for an
229 appraisal;

230 (2) Withholding or threatening to withhold business from, or
231 demoting, terminating or threatening to demote or terminate, an
232 appraiser;

233 (3) Expressly or impliedly promising future business, promotion or
234 increased compensation to an appraiser;

235 (4) Conditioning an appraisal request or payment of a fee, salary or
236 bonus on the opinion, preliminary estimate, conclusion or valuation to
237 be reached by the appraiser;

238 (5) Requesting that an appraiser provide a predetermined or desired
239 valuation in an appraisal report or estimated values or comparable
240 sales at any time prior to the completion of an appraisal;

241 (6) Providing to an appraiser an anticipated, estimated, encouraged
242 or desired value for a subject property or a proposed or target amount
243 to be loaned to the borrower, except that a copy of the contract to
244 purchase may be provided;

245 (7) Providing or offering to provide to an appraiser or to any person
246 or entity related to the appraiser stock or other financial or
247 nonfinancial benefits;

248 (8) Removing an appraiser from an appraiser panel without prior
249 written notice to such appraiser as set forth in section 5 of this act;

250 (9) Obtaining, using or paying for a subsequent appraisal or
251 ordering an automated valuation model in connection with a mortgage
252 financing transaction unless (A) there is a reasonable basis to believe
253 that the initial appraisal was flawed or tainted and such basis is clearly

254 noted in such transaction file, or (B) such subsequent appraisal or
255 automated valuation model is performed pursuant to a bona fide
256 prefunding or postfunding appraisal review or quality control process;
257 or

258 (10) Using any other act or practice that impairs or attempts to
259 impair an appraiser's independence, objectivity or impartiality.

260 (e) Nothing in subsection (d) of this section shall be construed to
261 prohibit an appraisal management company from requesting that an
262 appraiser provide additional information about the basis for a
263 valuation or correct objective factual errors in an appraisal report.

264 Sec. 5. (NEW) (*Effective October 1, 2010*) (a) Except within the first
265 thirty days after an appraiser is initially added to an appraiser panel of
266 an appraisal management company, such company shall not remove
267 an appraiser from its appraiser panel or otherwise refuse to assign
268 requests or orders for appraisals without:

269 (1) Notifying the appraiser in writing of the reasons why the
270 appraiser is being removed;

271 (2) If the appraiser is being removed for alleged illegal conduct,
272 violation of the USPAP or violation of state licensing standards,
273 notifying the appraiser in writing of the nature of the alleged conduct
274 or violation; and

275 (3) Providing the appraiser with an opportunity to respond to such
276 notice.

277 (b) (1) Any appraiser who is removed from an appraiser panel
278 of an appraisal management company for alleged illegal conduct,
279 violation of the USPAP or violation of state licensing standards may
280 file a complaint with the commissioner and request a review of the
281 removal decision, except that the commissioner shall not make any
282 determination regarding the nature of the business relationship
283 between the appraiser and the appraisal management company that is

284 unrelated to the actions specified in subsection (a) of this section.

285 (2) If an appraiser files a complaint against an appraisal management
286 company pursuant to subdivision (1) of this subsection, the
287 commissioner shall notify such company not later than ten days after
288 such complaint is filed. The commissioner shall schedule a hearing and
289 render a decision not later than one hundred eighty days after the date
290 such complaint is filed.

291 (3) If, after the hearing, the commissioner determines to the
292 commissioner's satisfaction that the appraiser did not engage in illegal
293 conduct, violate the USPAP or violate state licensing standards, the
294 commissioner shall order such appraiser to be reinstated to the
295 appraiser panel of the appraisal management company.

296 (4) The appraisal management company that was the subject of
297 the complaint shall not (A) refuse to assign requests or orders for
298 appraisals or reduce the number of assignments to the reinstated
299 appraiser, or (B) otherwise penalize the reinstated appraiser.

300 Sec. 6. (NEW) (*Effective October 1, 2010*) (a) Upon the verified
301 complaint in writing of any person concerning a violation by an
302 appraisal management company of the provisions of sections 2 to 5,
303 inclusive, of this act, the Department of Consumer Protection shall
304 investigate such company. Upon a determination by the commissioner
305 that an appraisal management company has made any materially false,
306 fictitious or fraudulent statement or violated any provision of sections
307 2 to 5, inclusive, of this act, the commissioner may deny, refuse to
308 renew, suspend or revoke a certificate of registration issued in
309 accordance with section 2 of this act and may impose a civil penalty of
310 not more than twenty-five thousand dollars.

311 (b) Before denying, refusing to renew, suspending or revoking a
312 certificate of registration or imposing any civil penalty, the
313 commissioner shall give notice and afford an opportunity for hearing.
314 The commissioner shall adopt regulations, in accordance with chapter

315 54 of the general statutes, to carry out the provisions of this section.

316 Sec. 7. (NEW) (*Effective October 1, 2010*) The Commissioner of
317 Consumer Protection may adopt regulations, in accordance with
318 chapter 54 of the general statutes, to carry out the provisions of
319 sections 2 to 5, inclusive, of this act.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2010</i>	20-500
Sec. 2	<i>October 1, 2010</i>	New section
Sec. 3	<i>October 1, 2010</i>	New section
Sec. 4	<i>October 1, 2010</i>	New section
Sec. 5	<i>October 1, 2010</i>	New section
Sec. 6	<i>October 1, 2010</i>	New section
Sec. 7	<i>October 1, 2010</i>	New section

Statement of Purpose:

To require the registration and regulation of real estate appraisal management companies in this state.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]